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MEMORANDUM FOR: See Distribution

FROM:

Chief, Legislation Division, OLC

SUBJECT: NSA Cryptologic Linguist Legislative Proposal

1. Attached is a copy of a legislative proposal on Cryptologic Linguist Training which NSA would like to have included in the Fiscal Year 1982 Intelligence Authorization Bill.

2. It is my impression that we have considered the authorities contained in the Central Intelligence Agency Act of 1949 to be sufficient to cover all of our activities in the language training area, and that we did not rely on the now-repealed section 1048 of the Foreign Service Act of 1946 in the area of language training compensation. (NSA is concerned about the wording change in the replacement section, section 705 of the Foreign Service Act of 1980; see attachment B). I would ask, however, that you examine the NSA proposal and let me know if there is anything in it which might be useful for CIA to have, and for which statutory authority beyond the CIA Act would be necessary.

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Attachment

Distribution:

1 - EPH/GLT

1 - [redacted] C)

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1 - [redacted] TR)

1 - OLC Subject (File: FY82 Intel Authorization Bill)
Foreign Language Study

1 - OLC Chrono

OLC:GMC:es (17 April 1981)

DD/A REGISTRY

FILE: Legal

TITLE IX Cryptologic Linguist Training

Sec. 901. Section 10 of the National Security Agency Act of 1959, as amended, is amended by redesignating the present section 10 as section 10.a. and by adding at the end thereof the following new subsection:

"b. Notwithstanding the provisions of Chapter 41 of title 5, U.S.C., the Director, National Security Agency, on behalf of the Secretary of Defense, shall arrange for appropriate language and related training of military and civilian cryptologic personnel. In the exercise of this function, the Director may--

(1) provide for the general nature of the training and instruction to be furnished, including functional and geographic area specializations;

(2) arrange for training and instruction with other Government agencies and at non-governmental institutions that furnish training and instruction useful in the fields of language and foreign affairs;

(3) support programs that furnish necessary language and language related skills, including through contracts, grants or cooperation with educational institutions;

(4) obtain without regard to the Service Contract Act, as amended, by appointment or contract (subject to availability of appropriations), the services of individuals as language instructors, linguists, or special project personnel. An individual whose services are obtained by contract, shall be considered an employee within the meaning of that term as defined in section 8331(1) of title 5, U.S.C., for purposes of subchapter III of Chapter 83 of that title

provided such individual gives notice in writing to NSA of a desire to become subject to this subchapter and, consistent with section 8332(k)(2), deposits an amount equal to retirement deductions representing any period in which the individual was previously so employed by NSA. A contractor or contractor's employee engaged under this provision may not be provided access to classified information as defined in sec 304 of P.L. 88-290, 78 Stat 170, unless such individual meets the standards contained in that law.

(5) pay all or part of the tuition and other expenses related to the training of current and former military and civilian cryptologic personnel who are assigned or detailed for language and related training, orientation, or instruction;

(6) pay benefits and allowances to current and former personnel assigned to training at sites away from their normal duty station in accordance with Chapters 57 and 59 of title 5, U.S.C.

(7) provide without regard to subchapter IV of chapter 55 of title 5, U.S.C., special monetary or other incentives to encourage civilian cryptologic personnel to acquire or retain proficiency in foreign languages or special related abilities needed by NSA including special monetary incentives to former or retired civilian employees and military cryptologic personnel who agree to retain proficiency in such languages or abilities and to return to active civilian service with NSA during periods of emergency need as determined by the Director; and

(8) provide to family members of military and civilian cryptologic personnel, in anticipation of their assignment abroad or while abroad appropriate orientation and language training including the payment of the expenses of tuition or other necessary cost of instruction at a public or private institution in the U.S. or abroad, if such individuals are already abroad, provided such instruction is directly related to the assignment abroad."

(9) (a) obtain an agreement from current employees pertaining to continuation of service ^{or} repayment of the expenses of such training that is consistent with the provisions of section 4108 of title 5, U.S.C. and from former or retired employees who agree to maintain their language skills, return to service when requested, and who receive training under these provisions.

(b) The Director may waive in whole or in part a right of recovery under this subsection, if it is shown that the recovery would be against equity and in good conscience or against the public interest.

Sectional Analysis

Section 1 amends the National Security Agency Act of 1959, as amended, (Public Law 86-36, 73 Stat. 63) which sets out administrative authorities for the National Security Agency, to add a new subsection b to section 10 of that Act. Subsection b would provide authority to the Director, National Security Agency, on behalf of the Secretary of Defense, to arrange for appropriate language and related training of civilian and military cryptologic personnel.

Subsection b(1) affirms in statute the Director's authority to establish policy concerning the general nature of the training and instruction to be provided civilian and military cryptologic personnel including the specification of required functional and geographic specializations and exempts such training from the provisions of the Training Act.

Subsection b(2) provides statutory authority to arrange for training and instruction for civilian and military cryptologic personnel with other Government agencies and at non-government institutions. This subsection would permit better use of other government facilities and greater and more effective use of private institutions, particularly institutions that indicate a willingness to enter into cooperative arrangements of mutual benefit.

Subsection b(3) provides statutory authority to directly support programs undertaken by institutions that furnish language and language related skills that are unique to the cryptologic mission and to provide assistance to cooperating educational

institutions that agree to maintain such programs of instruction or expertise.

Subsection b(4) provides statutory authority to obtain and retain on both short term and long term bases instructors, linguists or special project personnel, as required to provide training or perform language related tasks. Personnel obtained on a long term basis would be afforded the opportunity to participate in the Civil Service Retirement Program in order to enhance their retention. This provision also affirms the authority to obtain the services of such personnel by contract, provided they are not permitted access to classified information as that term is defined by Public Law 88-290, unless they meet the standards of that law and such access is necessary. Public Law 88-290 defines that term to mean the categories of information specifically designated by a U.S. Government Agency for limited or restricted dissemination or distribution (classified cryptologic information as enumerated in section 798 of title 18, U.S.C.).

Subsection b(5) authorizes payment of the expenses of tuition and other charges for the training of current and former or retired military and civilian cryptologic personnel who are assigned or detailed for language and related training, orientation, or instruction.

Subsection b(6) authorizes the payment of appropriate benefits and allowances to current and former or retired personnel assigned to training at other government facilities or private institutions.

Subsection b(7) authorizes the payment of special monetary or other incentives without regard to restrictions in law pertaining

to dual compensation to encourage civilian cryptologic personnel to acquire or retain proficiency in foreign languages or special related abilities needed by NSA (military personnel incentives are authorized separately in the Defense Authorization Act). In addition, this subsection authorizes the payment of special monetary incentives to former or retired NSA employees and military cryptologic personnel who agree to retain existing language proficiency or skills and to return to active service with NSA during periods of emergency need as determined by the Director, NSA. This would provide the basis for a cryptologic linguist reserve to meet crises and surge requirements.

Subsection b(8) provides for the payment of the expenses of tuition and related costs of language and orientation training for family members of personnel assigned overseas.

Subsection b(9) provides for the recoupment of the expenses of training provided under this section should an individual elect not to serve as requested or for the requisite period of time specified in section 4108 of title 5, U.S.C. The Director is accorded the authority to waive this requirement where equity or the public interest dictate such a waiver.

Repealed Title 22 Section

§ 1048. Orientation and language training for family members of Government personnel

(a) To facilitate orientation and language training provided to members of families of officers and employees of the Government pursuant to section 1041 of this title, the Secretary may make grants to family members attending language and orientation programs of study of the Institute. No such grant may exceed the amount actually expended for necessary costs incurred in conjunction with such attendance, and in no event may any such grant exceed \$300 per month per individual. No individual may receive such a grant for more than six months in connection with any one assignment.

(b) If a member of the family of an officer or employee of the Government who is assigned abroad is unable to participate in language training provided by the Department at the Institute or elsewhere, the Secretary may partially compensate that family member for language training, related to the assignment abroad, which is undertaken at a public or private institution.

Aug. 13, 1946, c. 957, Title VII, § 708, as added Oct. 7, 1978, Pub.L. 95-426, Title IV, § 405(a)(1), 92 Stat. 979.

Foreign Service Act of 1980: New Sections

New Foreign Service Act Sections

(b) In furtherance of the objectives of this Act, the Secretary may—

(1) pay the tuition and other expenses of members of the Service and employees of the Department who are assigned or detailed in accordance with law for special instruction or training, including orientation, language, and career development training;

(2) pay the salary (excluding premium pay or any special differential under section 411) of members of the Service selected and assigned for training; and

(3) provide special monetary or other incentives to encourage members of the Service to acquire or retain proficiency in foreign languages or special abilities needed in the Service.

(c) The Secretary may provide to family members of members of the Service or of employees of the Department or other agencies, in anticipation of their assignment abroad or while abroad—

Orientation and training for family members.

(1) appropriate orientation and language training; and

(2) functional training for anticipated prospective employment under section 311.

SEC. 705. TRAINING GRANTS.—(a) To facilitate training provided to members of families of Government employees under this chapter, the Secretary may make grants (by advance payment or by reimbursement) to family members attending approved programs of study. No such grant may exceed the amount actually expended for necessary costs incurred in conjunction with such attendance.

22 USC 4025.

(b) If a member of the Service who is assigned abroad, or a member of his or her family, is unable to participate in language training furnished by the Government through the Institute or otherwise, the Secretary may compensate that individual for all or part of the costs of language training, related to the assignment abroad, which is undertaken at a public or private institution.

Language training, compensation.